

# **EXHIBIT A**

# **State Court Record**

2

**JACOBSON LAW FIRM**  
2730 EAST BROADWAY BLVD., SUITE 160  
TUCSON, ARIZONA 85716  
TELEPHONE (520) 885-2518  
FACSIMILE (520) 844-1011  
jeff@jhj-law.com  
Jeffrey H. Jacobson, PCC #65402; SB#019502  
Attorney for Plaintiff

7/23/14  
FILED  
THOMAS HULLON  
CLERK, SUPERIOR COURT

14 JUL 23 PM 5:46

K. YLVISAKER, DEPUTY

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF PIMA**

CARRIE FERRARA CLARK,

Case No.

C 20143985  
G 20143985

Plaintiff,

**COMPLAINT**

vs.

(Sex Discrimination; Hostile Work Environment; Retaliation)

CITY OF TUCSON,

Assigned to:

Gus Aragon

Defendant.

**PAID**

Plaintiff, through undersigned counsel, for her Complaint against the Defendant, alleges as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Carrie Ferrara Clark is a resident of Pima County, Arizona.
2. Defendant City of Tucson is a municipal corporation in Pima County, Arizona.
3. Defendant is an employer within the meaning of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, 42 U.S.C. §§ 2000e et seq. (Title VII), and the Arizona Civil Rights Act (ACRA), A.R.S. § 41-1461(6)(a).
4. Plaintiff is an employee of the City of Tucson Fire Department (TFD) within the meaning of 42 U.S.C. § 2000e(f).
5. The Arizona Superior Court, Pima County, has jurisdiction in this case pursuant to A.R.S. § 41-1481(D).

5/

1           6.     Venue in Pima County is proper pursuant to A.R.S. § 12-401.

2           7.     Plaintiff alleges that Defendant City of Tucson is legally responsible for the  
3 acts and/or omissions giving rise to this cause of action and is legally and proximately  
4 responsible for damages as alleged herein pursuant to A.R.S. § 41-1481(G).

5                           **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6           8.     Prior to filing this civil action, Plaintiff timely filed a written charge of  
7 discrimination with the Arizona Attorney General's Office, Civil Rights Division, pursuant  
8 to the Arizona Civil Rights Act, § 41-1481(A). After its investigation, the Attorney  
9 General's Office issued Plaintiff a Right to Sue letter on April 24, 2014. Exhibit A.

10          9.     Plaintiff has timely filed her Complaint pursuant to the Arizona Civil Rights  
11 Act, § 41-1481(D).

12                           **GENERAL ALLEGATIONS**

13          10.    Plaintiff has been an employee of the City of Tucson's Fire Department  
14 (TFD) since 2007.

15          11.    Plaintiff is currently employed as a Paramedic with TFD.

16          12.    Plaintiff gave birth to her son on July 19, 2012, Plaintiff returned to work on  
17 October 27, 2012.

18          13.    When she returned to work, Plaintiff was a Swing Paramedic on "C" Shift,  
19 where she was scheduled to work at different fire stations depending on TFD's needs.

20          14.    Before she returned to work, because Plaintiff knew she would be pumping  
21 breast milk throughout her work day, she notified Battalion Chief (BC) Paul McDonough,  
22 of her need for a private lactation room while on duty.

23          15.    At the time, TFD did not have any procedures in place for dealing with  
24 Plaintiff's request.

25          16.    Initially, BC McDonough and Plaintiff discussed having her work from  
26 Station 20 so as not to displace other employees and to bring as little attention to her  
situation as possible.



1 17. BC McDonough and Plaintiff were both aware that working from Station 20  
2 was only temporary because she would be filling a temporary vacancy at that Station until  
3 the end of the year.

4 18. On or about October 27, 2012, Paramedic Jeff Todd, who was then-assigned  
5 to Station 12, told Plaintiff that he wanted to move to another station and would like to help  
6 her.

7 19. On or about October 28, 2012, Paramedic Todd sent an email to BC Brian  
8 Stevens formally requesting a transfer from Station 12 to fill the vacancy at Station 20,  
9 knowing this would help Plaintiff because her home is close to Station 12. TFD, however,  
10 ignored Paramedic Todd's request.

11 20. BC McDonough asked Plaintiff's husband, TFD Fire Captain Gordon Clark,  
12 whether Station 12 was a better fit for Plaintiff and if she would rather be there than at  
13 Station 20. Captain Clark responded, "absolutely."

14 21. Station 12 was a perfect fit for Plaintiff because it has a private room suitable  
15 to express and pump her breast milk and available refrigerator storage space.

16 22. At the time, Station 12 had two other mothers on Plaintiff's shift, as well as a  
17 mother on a different shift, one of whom was also pumping breast milk.

18 23. On or about October 30, 2012, BC Stevens and Deputy Chief (DC) Ed Nied  
19 met with TFD's Human Resources Manager Joann Acedo regarding Paramedic Todd's  
20 temporary transfer request to Station 12.

21 24. TFD denied Paramedic Todd's transfer request even though TFD had  
22 previously granted other transfers between male coworkers for various reasons.

23 25. TFD also granted Paramedic Todd's request to leave Station 12 and assigned  
24 him to a Swing position. Contrary to Section 201 of the Rules of Assignment in TFD's  
25 Manual of Operations, TFD put Paramedic Todd's Station 12 assignment out to bid.

26 26. On or about November 9, 2012, Plaintiff submitted a memorandum formally  
requesting a temporary assignment to Station 12. In her memorandum, Plaintiff explained  
the reasons for her request. Plaintiff's memorandum was preceded by memoranda prepared

1 by Paramedic Todd and BC McDonough requesting Plaintiff's temporary assignment to  
2 Station 12.

3 27. As a result of the uncertainty surrounding her work assignment location,  
4 Plaintiff experienced stress and anxiety. This contributed to her inability to produce enough  
5 milk for her son during the 24 hours she was at work, necessitating either Plaintiff's  
6 husband or mother to come to her work location to pick up additional milk during her shift.

7 28. On or about November 12, 2012, BC McDonough brought Plaintiff to  
8 headquarters to meet with DC Nied and DC Rodriguez.

9 29. Plaintiff attempted to explain her situation but was met with insensitive and  
10 inappropriate questions from DCs Nied and Rodriguez.

11 30. Following the meeting, Plaintiff was advised that she would remain at Station  
12 12 for only five additional days.

13 31. Due to the efforts of BC McDonough and as a result of other vacancies at  
14 Station 12, Plaintiff was able to remain at Station 12 through January 1, 2013.

15 32. Beginning in January 2013, Plaintiff was given swing assignments to  
16 locations which were not equipped with appropriate lactation rooms. When Captain Clark  
17 mentioned this to TFD's scheduler, Captain Rick L'Heureux, he responded, "I don't think  
18 she deserves any special accommodations."

19 33. Plaintiff had to use vacation and sick leave time when she was assigned to  
20 stations that did not have a private space for lactation.

21 34. This situation exacerbated Plaintiff's stress and anxiety because she never  
22 knew from day to day if she would be assigned to work at a station that would allow her to  
23 privately express and store her breast milk.

24 35. In approximately mid-January 2013, Plaintiff met with Marty Macias, an  
25 investigator in the City's Office of Equal Opportunity Programs (OEOP) to discuss the  
26 discrimination she was experiencing.

36. Ms. Macias told Plaintiff that she had a valid claim and gave Plaintiff a  
complaint form to fill out. Plaintiff, however, chose not to file a formal complaint at that  
time, hoping that the situation would improve.



1           37. Plaintiff continued to be assigned to stations that were not equipped with an  
2 appropriate lactation room.

3           38. On or about March 20, 2013, after receiving another assignment that was not  
4 equipped with an appropriate lactation room, Plaintiff made repeated telephone calls to DC  
5 Rodriguez and Assistant Chief (AC) Mike Fischback, leaving messages that it was urgent  
6 she speak with them. Her calls to DC Rodriguez and AC Fischback, however, were not  
7 returned.

8           39. Shortly before 5:00 p.m. on March 20, 2013, AC Fischback answered  
9 Plaintiff's fourth phone call, immediately put her on hold, and returned with DC Rodriguez  
10 and HR Manager Acedo.

11           40. Plaintiff explained that she had again been assigned to work at Station 9 that  
12 night which was not equipped with an appropriate lactation room. DC Rodriguez  
13 responded that Station 9 was, "the only thing we have open for you tonight."

14           41. HR Manager Acedo told Plaintiff that "per the law," Station 9 was on an  
15 "approved list" because the Chief's combined office/bedroom and the Emergency Captain's  
16 combined office/bedroom both had closing doors. HR Manager Acedo advised Plaintiff to  
17 just ask them to leave their rooms when she needed to pump.

18           42. Plaintiff then explained that she pumped milk every 2-3 hours, including  
19 throughout the night, and that awakening her supervisors to leave their rooms so she could  
20 pump was unreasonable. HR Manager Acedo then told Plaintiff, "your pumping seems  
21 excessive to me." Plaintiff responded that this was normal for a newborn baby. HR  
22 Manager Acedo replied, "well, it seems to me that you're not fit for duty."

23           43. Exasperated and frustrated with HR Manager Acedo's lack of understanding  
24 and her offensive comments, Plaintiff responded, "you are out of your friggin' mind if you  
25 think I would awaken and ask a Chief or Captain to leave their assigned room every 2-3  
26 hours to pump." In response, both DC Rodriguez and AC Fischback agreed that Station 9  
was not an acceptable location for pumping breast milk.

          44. Plaintiff was so distraught that she was in tears and was unable to work her  
shift.

1           45. On or about March 26, 2012, Plaintiff was summoned to TFD headquarters  
2 for a meeting with DC Rodriguez, AC Fischback and DC Nied.

3           46. Under normal TFD practice, her supervisor, BC McDonough, should have  
4 also been in attendance, but was not present.

5           47. Per the terms of City of Tucson Administrative Directives and the  
6 International Association of Fire Fighters Local 479 and City of Tucson Contract (CBA),  
7 Plaintiff called her C Shift Union Griever, Sloan Tamietti, to accompany her to the meeting.

8           48. Union Griever Tamietti called DC Rodriguez. DC Rodriguez told Union  
9 Griever Tamietti, "labor doesn't need to be here for this."

10           49. Plaintiff told Union Griever Tamietti that she wanted him there anyway, and  
11 eventually he was allowed to join them.

12           50. During the meeting, Plaintiff was handed a letter stating that she was being  
13 written up for using the phrase "you're out of your friggin' mind" during the March 20,  
14 2013, phone call.

15           51. AC Fischback then told Plaintiff that until August 2013, when her son would  
16 turn one year old, she would be assigned to work exclusively at Station 6 because the other  
17 TFD stations did not have conforming lactation rooms.

18           52. Station 6 is located at the far southeast boundary of the City on Wilmot off of  
19 I-10, and primarily responds to calls from the federal and state prisons on Wilmot.

20           53. Plaintiff asked AC Fischback for the list of approved stations but was told she  
21 could not have the list until it was revised because OEOP had just listed the stations that  
22 had a room with a locking door, and had not taken into account that some of those rooms  
23 were commander bedrooms.

24           54. Plaintiff then asked about working overtime and about trades. AC Fischback  
25 told her that they had not "thought about that yet."

26           55. TFD never provided the approved list to Plaintiff, and as a result, because she  
was exclusively assigned to Station 6, Plaintiff was deprived of overtime earning  
opportunities and with one exception, station trades.



1           56. Plaintiff then asked why she could not work at Station 12, whereupon AC  
2 Fischback responded that Station 12 was not on the approved list.

3           57. Plaintiff pointed out that the only other nursing mother at the time in TFD,  
4 Arianne Phaneuf, was assigned to Station 12. AC Fischback replied, “well, that’s what  
5 happens when you file a complaint with EEO.”

6           58. Plaintiff told AC Fischback that she had not filed a complaint. He responded,  
7 “well, someone called and got them involved.”

8           59. Plaintiff’s reassignment to a firefighter position at Station 6 occurred without  
9 formal notice via a TFD Employee Personnel Record Update Form and at the displeasure of  
10 the existing Station 6-assigned employee who was displaced as a result.

11           60. Plaintiff continues to be approached by coworkers who ask if she is the one  
12 who complained about breastfeeding locations.

13           61. On or about July 19, 2013, TFD issued a new nursing room policy. Shortly  
14 after the new policy was enacted, both Plaintiff and her husband, Captain Clark, were told  
15 by several individuals that the policy had become known as the “Carrie Clause.”

16           62. While working at Station 6, an extra duty Captain, Jamie Sieminski, walked  
17 in, threw up his hands, and said, “oh, is this the nursing room? I don’t want to come in here  
18 if this is the nursing room.” Captain Nate Webber overheard Captain Sieminski’s remark,  
19 and asked what he meant, to which Captain Sieminski replied, “oh, you haven’t heard about  
20 the new nursing room policy?” Plaintiff, who was embarrassed by the flippant remarks,  
21 then left the room.

22           63. In August 2013, during her first shift at Station 6 after her son’s first birthday,  
23 Plaintiff received a call from HR Manager Acedo, advising Plaintiff that her time at Station  
24 6 was up and that if she wanted more time she needed to formally request it through a  
25 memorandum.

26           64. In a subsequent meeting with Plaintiff, AC Brad Olson permanently assigned  
Plaintiff to Station 6.

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1           65. Although working conditions improved significantly at Station 6 due to the  
2 efforts of AC Olson, it did not eliminate the damage that had previously been done to  
3 Plaintiff since her return to work after her son's birth.

4           66. On July 31, 2013, Plaintiff filed a written charge of discrimination with the  
5 Arizona Attorney General's Office, Civil Rights Division pursuant to the Arizona Civil  
6 Rights Act, § 41-1481(A).

7           67. In January 2014, Plaintiff informed TFD that she was again pregnant.

8           68. On April 24, 2014, the Attorney General's Office issued Plaintiff a Right to  
9 Sue letter.

10           69. On or about May 22, 2014, Captain Ted McDonough singled Plaintiff out and  
11 instructed Plaintiff to perform firefighting drills that none of the other members of her crew  
12 were required to perform. When Plaintiff repeatedly asked Captain McDonough why she  
13 was being singled out, he ignored her and would not reply to her questions.

14           70. On May 22, 2014, Plaintiff filed a notice of claim against the City of Tucson  
15 for sex discrimination and retaliation that she had experienced since returning to work in  
16 October 2012.

17           71. Plaintiff was assigned to light duty on June 16, 2014.

18           72. Up to the time Plaintiff went on her light duty assignment, HR Manager  
19 Acedo was frequently contacting Plaintiff asking her if she still had the same need to pump  
20 her breast milk, or words to that effect.

21           73. On or about June 17, 2014, BC Tim Nofs asked her to submit a memo about  
22 the May 22nd incident when Captain McDonough took her out to drill by herself because  
23 TFD administration wanted to pursue disciplinary action against her for insubordination.

24           74. On June 19, 2014, Plaintiff started her day at 6:00 a.m. in her light duty  
25 assignment (in the fire prevention division), planning to work a 10-hour shift. Plaintiff's  
26 supervisor, Ken Brouillette, was aware of her schedule. At approximately 2:40 p.m.,  
Plaintiff left to exercise as she is required to do pursuant to TFD's Manual of Operations.

          75. At approximately 2:45 p.m., HR Assistant Veronica Muñoz called Plaintiff  
and said that HR Manager Acedo told her that Plaintiff was not authorized to leave, and that

1 she could not exercise without a doctor's note. Further, Plaintiff was told that she was not  
2 allowed to come in to work before 7:00 a.m.

3 76. Plaintiff proceeded to obtain a doctor's note which indicated that she was  
4 authorized to engage in low-impact exercise.

5 77. Upon information and belief, TFD has never required a pregnant employee  
6 who is on a light duty assignment to provide a doctor's note in order to exercise.

7 78. On or about June 19 or 20, 2014, at HR Manager Acedo's direction, TFD's  
8 HR department changed Plaintiff's computerized time entry for June 18, 2014, and  
9 withdrew 6 hours from her vacation time bank instead of 3 hours. The three additional  
10 hours withdrawn without Plaintiff's consent represented the one-hour differential between  
11 6:00 a.m. and 7:00 a.m., the 1.5 hours she exercised and .5 for lunch. Plaintiff's schedule  
12 was also changed to begin her day at 7:00 a.m.

13 79. Also on June 19, 2014, a meeting or meetings occurred between Mr.  
14 Brouillette, AC Joe Gulotta and HR Manager Acedo, amongst others. Eventually, it was  
15 decided that Plaintiff would be allowed to exercise, but only at Station 1. They also  
16 decided that Plaintiff would not be allowed to flex her time and that her schedule would be  
17 7:00 a.m. to 5:30 p.m. every day.

18 80. Upon information and belief, other than what is articulated in the TFD  
19 Manual of Operations, TFD has never restricted the exercise location for any employee.

20 81. Upon information and belief, other TFD employees on light duty are allowed  
21 to start their shifts at 6:00 a.m. and are allowed to flex their time.

22 82. Since returning to work in October 2012, and continuing to this day, TFD has  
23 subjected Plaintiff to sex discrimination resulting in a hostile work environment including,  
24 but not limited to, the incidents discussed above.

25 83. Since TFD became aware that Plaintiff had contacted the OEOP in January  
26 2013, and continuing to this day (including, but not limited to, the incidents discussed  
above), TFD has continued to retaliate against the Plaintiff in reprisal for Plaintiff reporting  
the FLSA violations.

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**COUNT ONE**  
**(Sex Discrimination/Retaliation in Violation of the Fair Labor**  
**Standards Act, 29 U.S.C. § 207(r) and § 215)**

84. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-83 above as though fully set forth herein.

85. The Fair Labor Standards Act (FLSA), as amended by the Patient Protection and Affordable Care Act, 29 U.S.C. § 207(r), requires an employer to provide a suitable location and break times for the purpose of expressing breast milk for one year after a child's birth each time an employee has need to express the milk. The location must be a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public.

86. TFD did not provide Plaintiff with an appropriate lactation room on a consistent basis until March 23, 2013, almost five months after she had returned to work.

87. Further, TFD retaliated against Plaintiff for her repeated and continued reports of her belief that TFD was violating federal law by not providing her with an appropriate lactation room on a consistent basis.

88. TFD also engaged in a pattern of hostile and belittling behavior toward Plaintiff, causing her serious emotional anguish.

89. Further, in reprisal for reporting the FLSA violation, TFD retaliated against her by disciplining her and relegating her to work only at Station 6.

90. TFD intentionally discriminated against Plaintiff in violation of the FLSA and acted with malice or with reckless indifference to Plaintiff's federally protected rights.

91. As a result of TFD's actions as alleged herein, Plaintiff has suffered damages, including, without limitation, loss of wages and associated benefits, and emotional distress, for which she should be compensated in an amount to be determined at trial pursuant to 29 U.S.C. § 216(b).

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**COUNT TWO**  
**(Sex Discrimination in Violation of Title VII of the**  
**Civil Rights Act of 1964, as Amended)**

92. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-91 above as though fully set forth herein.

93. TFD is an employer within the meaning of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, 42 U.S.C. §§ 2000e et seq. (Title VII) and in particular, 42 U.S.C. § 2000e(b).

94. TFD's actions as alleged herein constitute discrimination on the basis of sex in violation of Title VII, and specifically, 42 U.S.C. § 2000e-2(a) and 42 U.S.C. § 2000e(k).

95. TFD intentionally discriminated against Plaintiff and acted with malice or with reckless indifference to Plaintiff's federally protected rights.

96. As a result of TFD's discrimination, Plaintiff has suffered damages, including, without limitation, loss of wages and associated benefits, emotional distress, mental anguish, and loss of enjoyment of life for which she should be compensated in an amount to be determined at trial pursuant to 42 U.S.C. § 2000e-5.

**COUNT THREE**  
**(Sex Discrimination/Hostile Work Environment in Violation of**  
**the Arizona Civil Rights Act, A.R.S. § 41-1463(B)(1))**

97. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-96 above as though fully set forth herein.

98. Plaintiff was subjected to sex discrimination by TFD which resulted in a hostile work environment.

99. Pursuant to the Arizona Civil Rights Act (ACRA), A.R.S. § 41-1463(B)(1), it is an unlawful employment practice for an employer to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment because of sex.

100. TFD deliberately and unlawfully discriminated against Plaintiff based upon her sex in violation of the ACRA, A.R.S. §§ 41-1461, et seq.



1 101. As a result of TFD's discrimination, Plaintiff has suffered lost wages and the  
2 value of lost benefits, and other damages for which she should be compensated in an  
3 amount to be determined at trial.

4 **COUNT FOUR**  
5 **(Retaliation in Violation of the Arizona**  
6 **Civil Rights Act, A.R.S. § 41-1464(A))**

7 102. Plaintiff hereby incorporates by reference the allegations contained in  
8 paragraphs 1-101 above as though fully set forth herein.

9 103. Pursuant to A.R.S. § 41-1464(A), it is an unlawful employment practice for  
10 an employer to discriminate against any of its employees because the employee opposed  
11 any practice which is an unlawful employment practice.

12 104. Plaintiff complained to management and opposed conduct which she  
13 reasonably believed to be an unlawful employment practice under the ACRA.

14 105. TFD unlawfully discriminated against Plaintiff in violation of A.R.S. § 41-  
15 1464(A) by subjecting her to materially adverse employment actions and by subjecting her  
16 to severe or pervasive conduct which changed the terms and conditions of Plaintiff's  
17 employment and created a hostile work environment because she opposed conduct which  
18 she reasonably believed to be an unlawful employment practice under the Arizona Civil  
19 Rights Act.

20 106. As a result of TFD's unlawful retaliation, Plaintiff suffered monetary  
21 damages for which she should be compensated in an amount to be determined at trial  
22 pursuant to A.R.S. § 41-1481(G).

23 **WHEREFORE**, Plaintiff prays that the Court enter judgment in her favor and  
24 against the Defendant as follows:

- 25 1. For compensatory damages in a just and reasonable amount;
- 26 2. For punitive damages in a just and reasonable amount;
3. For Plaintiff's costs and attorney's fees in this matter pursuant to A.R.S. § 41-  
1481(J), 42 U.S.C. § 2000e-5(k), and 29 U.S.C. § 216(b);

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4. For such other and further relief as the Court deems reasonable and just.

DATED this 23<sup>rd</sup> day of July, 2014.

**JACOBSON LAW FIRM**



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Jeffrey H. Jacobson  
Attorney for Plaintiff



# Exhibit A

OFFICE OF THE ATTORNEY GENERAL  
Civil Rights Division

NOTICE OF RIGHT TO SUE

Mrs. Carrie A. Clark  
(Charging Party)

vs.

City of Tucson, Fire Department  
(Respondent)

CRD No.: T0012013000486

EEOC No.: 35A-2013-00456C

On July 31, 2013, you filed a charge with the Civil Rights Division alleging employment discrimination. Arizona law provides that you may bring a civil action in Superior court of the county where the alleged discriminatory action took place. Should you decide to file a civil action, you must do so **within 90 days** of the date you receive this Notice or **within one year** of the date you filed the charge, **whichever comes first**. A.R.S. ' 41-1481(D.)

This NOTICE OF RIGHT TO SUE is being issued for the following reason(s):

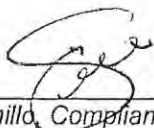
- This office has made a final determination or has otherwise completed its processing of your charge and will be taking no further action.
- The Civil Rights Division has not completed the processing of your charges, but there are approximately 90 days left before the expiration of the **one year deadline** for filing a civil action in Superior Court.
- Although your charge was sent to the Equal Employment Opportunity Commission for processing, you may also have a right to sue under the Arizona Civil Rights Act, and there are approximately 90 days left before the expiration of the **one year deadline** for filing a civil action in Superior Court.
- Charging Party has submitted a written request.

If you have any questions concerning this notice, please contact (520) 628-6500. If you need legal assistance, you should seek the advice of an attorney.

Sincerely,

Karen J. Hartman-Tellez, Chief Counsel  
Civil Rights Compliance Section

BY:



Ernest Granillo, Compliance Manager

Sent by regular mail this 24th day of April, 2014

cc: Ms. Julianne K. Hughes Esq. (Respondent's Attorney)



**In the Superior Court of the State of Arizona  
In and For the County of Pima**

Case Number 020143985

**CIVIL COVER SHEET- NEW FILING ONLY**  
(Please Type or Print)

Plaintiff's Attorney: Jeffrey H. Jacobson

Attorney Bar Number: 019502

Plaintiff's Name(s):

CARRIE FERRARA CLARK



Plaintiff's Address:

6136 E. West Miramar Drive  
Tucson, Arizona 85715

Defendant's Name(s): CITY OF TUCSON

EMERGENCY ORDER SOUGHT:  Temporary Restraining Order  Provisional Remedy  OSC  
 Election Challenge  Employer Sanction  Other \_\_\_\_\_  
(Specify)

RULE 8(i) COMPLEX LITIGATION DOES NOT APPLY. (Mark appropriate box under Nature of Action)

RULE 8(i) COMPLEX LITIGATION APPLIES. Rule 8(i) of the Rules of Civil Procedure defines a "Complex Case" as civil actions that require continuous judicial management. A typical case involves a large number of witnesses, a substantial amount of documentary evidence, and a large number of separately represented parties.  
(Mark appropriate box on page two as to complexity, **in addition** to the Nature of Action case category).

**NATURE OF ACTION**

(Place an "X" next to the **one** case category that most accurately describes your primary case.)

**TORT MOTOR VEHICLE:**

- Non-Death/Personal Injury
- Property Damage
- Wrongful Death

**TORT NON-MOTOR VEHICLE:**

- Negligence
- Product Liability - Asbestos
- Product Liability - Tobacco
- Product Liability - Toxic/Other
- Intentional Tort
- Property Damage
- Legal Malpractice
- Malpractice - Other professional
- Premises Liability
- Slander/Libel/Defamation
- Other (Specify) \_\_\_\_\_

**MEDICAL MALPRACTICE:**

- Physician M.D.  Hospital
- Physician D.O.  Other

**CONTRACTS:**

- Account (Open or Stated)
- Promissory Note
- Foreclosure
- Buyer-Plaintiff
- Fraud
- Other Contract (i.e. Breach of Contract)
- Excess Proceeds-Sale
- Construction Defects (Residential/Commercial)
  - Six to Nineteen Structures
  - Twenty or More Structures

**OTHER CIVIL CASE TYPES:**

- Eminent Domain/Condemnation
- Eviction Actions (Forcible and Special Detainers)
- Change of Name

**OTHER CIVIL CASE TYPES : (Continued)**

- Transcript of Judgment
- Foreign Judgment
- Quiet Title
- Forfeiture

- Election Challenge
- NCC- Employer Sanction Action (A.R.S. §23-212)
- Injunction against Workplace Harassment
- Injunction against Harassment
- Civil Penalty
- Water Rights(Not General Stream Adjudication)
- Real Property
- Sexually Violent Person (A.R.S. §36-3704)  
(Except Maricopa County)
- Minor Abortion (See Juvenile in Maricopa County)
- Special Action Against Lower Courts  
(See lower court appeal cover sheet in Maricopa)
- Immigration Enforcement Challenge (§§1-501, 1-502, 11-1051)

**UNCLASSIFIED CIVIL:**

- Administrative Review  
(See lower court appeal cover sheet in Maricopa)
- Tax Appeal  
(All other tax matters must be filed in the AZ Tax Court)
- Declaratory Judgment
- Habeas Corpus
- Landlord Tenant Dispute- Other

- Restoration of Civil Rights (Federal)
- Clearance of Records (A.R.S. §13-4051)
- Declaration of Factual Innocence (A.R.S. §12-771)
- Declaration of Factual Improper Party Status
- Vulnerable Adult (A.R.S. §46-451)
- Tribal Judgment
- Structured Settlement (A.R.S. §12-2901)
- Attorney Conservatorships (State Bar)
- Unauthorized Practice of Law (State Bar)
- Out-of-State Deposition for Foreign Jurisdiction
- Secure Attendance of Prisoner
- Assurance of Discontinuance
- In-State Deposition for Foreign Jurisdiction
- Eminent Domain- Light Rail Only
- Interpleader- Automobile Only
- Delayed Birth Certificate (A.R.S. §36-333.03)
- Employment Dispute- Discrimination
- Employment Dispute-Other
- Other \_\_\_\_\_

(Specify)

**COMPLEXITY OF THE CASE**

If you marked the box on page one indicating that Complex Litigation applies, place an "X" in the box of no less than one of the following:

- Antitrust/Trade Regulation
- Construction Defect with many parties or structures
- Mass Tort
- Securities Litigation with many parties
- Environmental Toxic Tort with many parties
- Class Action Claims
- Insurance Coverage Claims arising from the above-listed case types
- A Complex Case as defined by Rule 8(i) ARCP

Additional Plaintiff(s)

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---



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Additional Defendant(s)

---



---



---



FILED  
TOM L. HELLON  
CLERK SUPERIOR COURT

14 JUL 23 PM 5:44

K. YLVISAKER, DEPUTY

1 **JACOBSON LAW FIRM**  
2 2730 EAST BROADWAY BLVD., SUITE 160  
3 TUCSON, ARIZONA 85716  
4 TELEPHONE (520) 885-2518  
5 FACSIMILE (520) 844-1011  
6 jeff@jhj-law.com  
7 Jeffrey H. Jacobson, PCC #65402; SB#019502  
8 Attorney for Plaintiff

6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
7 **IN AND FOR THE COUNTY OF PIMA**

8 CARRIE FERRARA CLARK,

Case No.

**C20143985**

9 Plaintiff,

10 **CERTIFICATE ON COMPULSORY**  
11 **ARBITRATION**

11 vs.

12 CITY OF TUCSON,

Assigned to:

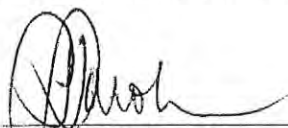
Gus Aragon

13 Defendant.

14  
15 The undersigned attorney certifies the largest award sought by the Plaintiff,  
16 including punitive damages, but excluding interest, attorney's fees and costs, exceeds the  
17 limits set by Rules 72 through 76 of the Arizona Rules of Civil Procedure. This case is not  
18 subject to arbitration.

19 DATED this 23<sup>rd</sup> day of July, 2014.

20 **JACOBSON LAW FIRM**

21 

22 Jeffrey H. Jacobson  
23 Attorney for Plaintiff



# Pima County Clerk of the Superior Court



<b>Case Number:</b> C20143986
<b>Case Caption:</b> NELDA A CHIMIENTI VS. JOSEPH DONOVAN ET AL.

**Document Type:** Open  
**Document Subtype:** Petition & Complaint  
**Document Caption:** Petition & Complaint  
**File Date:** 7/23/14

**Record last modified:** 7/23/2014 5:51:42PM **by user:** ltenenholtz



1 RUSSO, RUSSO & SLANIA, P.C.  
2 Steven Russo, State Bar No. 005607  
3 Joseph D. Chimienti, State Bar No. 027955  
4 6700 N. Oracle Rd., Suite 100  
5 Tucson, Arizona 85704  
6 (520)529-1515  
7 stever@rrs-law.com  
8 joec@rrs-law.com  
9 Attorneys for Plaintiff

7/23/14  
FILED  
14 JUL 23 PM 5:53

K. YLVISAKER, DEPUTY

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

11 **IN AND FOR THE COUNTY OF PIMA**

C  
20143986

12 NELDA A. CHIMIENI, an individual,

Case No.:

13 Plaintiff

**COMPLAINT**

v.

14 JOSEPH AND JILL DONOVAN, husband  
15 and wife, Arizona residents,

Assigned to the Hon. \_\_\_\_\_

16 Defendants

**STEPHEN VILLARREAL**

17 Plaintiff Nelda A. Chimienti, by and through undersigned counsel, alleges as  
18 follows:

19 **PARTIES, JURISDICTION, AND VENUE**

- 20 1. Plaintiff Nelda A. Chimienti is a resident of Pima County, Arizona.
- 21 2. Defendants Joseph and Jill Donovan are Pima County residents.
- 22 3. The events complained of herein occurred in the County of Pima, State of  
23 Arizona.
- 24 4. Jurisdiction and venue are proper in this Court.

25 **STATEMENT OF FACTS APPLICABLE TO ALL COUNTS**

- 26 5. Plaintiff Nelda A. Chimienti is the owner of real property located at 7307  
27 North Paseo Montalban, Tucson, Arizona 85704.
- 28 6. Defendants are the owners of real property located at 7313 North Paseo  
Montalban, Tucson, Arizona 85704.

PAID

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1 7. Plaintiff's property and Defendants' property lie within the Casas Adobes  
2 West No. II Subdivision of Pima County Arizona.

3 8. Plaintiff's property and Defendants' property are subject to Covenants  
4 Conditions and Restriction for Casas Adobes West No. II Subdivisions recorded with the  
5 Pima County Recorder on November 6, 1974 at Docket 4887, Page 494 (the "CC&Rs")  
6 attached as Exhibit A.

7 9. The CC&Rs are currently operative and in effect.

8 10. Around 2006, Defendants' constructed an addition to their residential home  
9 that has encroached on the Plaintiff's property.

10 11. Defendants' add-on was completed in violation of the CC&Rs and in  
11 violation of setback requirements.

12 12. In 2014, Defendants again modified their property to alter the flow of  
13 drainage water.

14 13. Defendants made these modifications in spite of Plaintiff's objections.

15 14. Plaintiff has been damaged by Defendants' actions.

16 **COUNT I**

17 **Breach of Covenants on Real Property**

18 15. Defendants' property is subject to the CC&Rs.

19 16. Defendants' addition to the property was constructed in violation of the  
20 CC&Rs and applicable setback requirements.

21 17. Defendants' modification of the drainage on the property is in violation of  
22 the CC&Rs and is causing damage to Plaintiff's property.

23 18. Some pertinent parts of the CC&Rs state:

24 "2. No Building shall be erected, placed or altered on any lot until the  
25 construction plans and specification and plan showing the location of the  
26 structure have been approved by the Architectural Control Committee as to  
27 quality of workmanship and materials, harmony of external design with  
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existing structures, and as to location with respect to topography and finish grade elevation. . .

8a. No building or covered porches or pergolas thereof shall be erected, placed or permitted at any point on any of said lots nearer than ten (10) feet to the side lines thereof, except on corner lots, where the minimum setback from the side street line must be fifteen (15) feet. . .

8c. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.”

19. Plaintiff has been damaged by Defendants’ breach of the CC&Rs.

20. Plaintiff’s property value has been diminished by Defendants’ breach of the CC&Rs.

21. Plaintiff has lost the quiet enjoyment of her property by Defendants’ breach of the CC&Rs.

**COUNT II**

**Negligence/Nuisance – Altering Watercourse**

22. Plaintiff restates all prior allegations and incorporates them fully into Count II.

23. Defendants owe a duty to other property owners not to interfere with the others’ use and enjoyment of their property.

24. Defendants owe a duty to adjacent property owners not to alter the drainage of their property in such a way that the resulting drainage damages the neighboring property.

25. Defendants’ additional structure and modified draining have redirect the drainage and flow of water from the Defendants’ property to the Plaintiff’s property.

1           26. Defendants' property alteration and drainage alteration have caused Plaintiff  
2 damages, diminished the value of Plaintiff's property, and cause Plaintiff's loss of quiet  
3 enjoyment of her property.

4   **COUNT III**  
5   **Trespass/Encroachment**

6           27. Plaintiff restates all prior allegations and incorporates them fully into Count  
7 III.

8           28. Defendants cannot intentionally enter the property of another without the  
9 owner's consent.

10           29. Defendants cannot intentional cause their property or items to enter the land  
11 of another without the landowner's consent.

12           30. Defendants have encroached upon the Plaintiff's property by building an  
13 additional structure.

14           31. Defendants have additionally trespassed on Plaintiff's property by  
15 intentionally causing the diversion of water flow on to the Plaintiff's property.

16           32. Defendants have taken such actions knowing of Plaintiff's objections.

17           33. Defendants' intentional actions have caused Plaintiff damages.

18   **COUNT IV**  
19   **Property Damage**

20           34. Plaintiff restates all prior allegations and incorporates them fully into Count  
21 IV.

22           35. Defendants have a duty not to intentionally damage the property of another.

23           36. Defendants' actions damaged Plaintiff's property by (i) causing debris to  
24 flow onto Plaintiff's property; (ii) changing the drainage flow of water onto the Plaintiff's  
25 property; (iii) encroaching on Plaintiff's property.

26           37. Defendants' actions have deprived Plaintiff the full use and quiet enjoyment  
27 of her property and diminished the value of her property.  
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**COUNT V**  
**Injunctive Relief**

38. Plaintiff restates all prior allegations and incorporates them fully into Count V.

39. Judges may grant injunctions pursuant to A.R.S. §12-1801.

40. An injunction is a proper remedy against continued series of trespasses, past and prospective, even when the defendant can respond in money damages.

41. Monetary damages alone are insufficient to alleviate the Plaintiff's harm.

42. Only the complete removal of the new drainage system and assurance that a new modification will not be put into place can sufficiently remedy Plaintiff's damages.

43. Additionally, the Plaintiff's diminished property value will not be adequately remedied absent the removal of the new drainage system.

**COUNT VI**  
**Punitive Damages**

44. Plaintiff restates all prior allegations and incorporates them fully into Count VI.

45. Defendants have acted in all matters alleged herein with reckless indifference to the rights and interests of the Plaintiff.

46. Defendants intentionally acted in a manner in effort to benefit their property to the detriment of the Plaintiff.

47. Defendants' intentional and reckless conduct has been repetitive and continuous.

**JURY REQUEST**

48. Plaintiff Nelda A. Chimienti hereby requests trial by jury.



**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Nelda A. Chimienti requests a judgment against Defendants as follows:

(a) Injunctive relief:

i. An order that the Defendants remove the drainage system that has been added to the property.

ii. An order that the Defendants abstain and refrain from conducting construction activities and drainage modifications in violation of the CC&Rs.

(b) General damages in a just and reasonable amount in compensation to Plaintiff for the damages to and diminished value of the Plaintiff's property and for the loss of quiet enjoyment thereof.

(c) Punitive damages in a just and reasonable amount.

(d) Full recovery of the costs of this litigation, costs of court, and reasonable attorneys' fees pursuant to A.R.S. §12-341.01; and

(e) Such other and further relief to which Plaintiff Nelda A. Chimienti may be justly entitled.

DATED this 23<sup>rd</sup> day of July, 2014

RUSSO, RUSSO & SLANIA, P.C.



Steven Russo  
Joseph D. Chimienti  
Attorneys for Plaintiffs

# Exhibit A

Nelda A. Chimienti v. Joseph and Jill Donovan  
Pima County Superior Court  
Complaint



BEST COPY

STATE OF ARIZONA  
COUNTY OF PIMA  
Witness my hand and Official Seal.

I hereby certify that the within instrument was filed for record in Pima County, State of Arizona

IDA MAE SMYTH  
County Recorder

Indexed	Paged	Blotched

FORM 2-13

No. 91871  
 Book 4887 Page 494-498  
 Date: 1974 NOV 6 AM 11 21  
 Request of: TRANSAMERICA TITLE INSURANCE COMPANY  
 Fee: 20

By: *Wendell D. ...*  
Deputy

75416  
 7543 684-687  
 1974 SEP 3 PM 4 15

*Arthur ...*  
Deputy

THIS INSTRUMENT IS BEING RE-RECORDED TO CORRECT THE NAME OF THE DECLARANT.

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR CASAS ADOBES WEST II

THIS DECLARATION is made this 29th day of August, 1974, by P.A.T. HOMES, INC., 4400 East Broadway, Tucson, Arizona, hereinafter called "Declarant", as present owner of the second beneficial interest in Transamerica Title Company, Trust Number 7558, being properly authorized so to act by terms of the Trust, and TRANSAMERICA TITLE COMPANY 177 North Church Avenue, Tucson, Arizona, as Trustee, thereunder, hereinafter called "Trustee", solely as bare legal title holder and not personally, and acting at the proper direction of said Beneficiary - "Declarant", executes this Declaration of Reservations, Covenants, Conditions, and Restrictions, to run with the real property herein described for the purposes as hereinafter set forth:

Lots 1 through 148, inclusive, of CASAS ADOBES WEST II according to the plat of record in the Office of County Recorder of Pima County, Arizona, in Book 26 of Maps and Plats, Page 60, Section 34, T-12-S, R-13-E, G.S.R.B. & M. thereof;

BOOK 4887 PAGE 494

**BEST COPY**

and desiring to establish the nature of the use and enjoyment of said property does hereby declare that the following conditions, restrictions and stipulations shall apply to all of the above lots, and does further declare that all conveyance of these lots shall be made subject to the following conditions, restrictions, and stipulations;

1. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family one story dwelling and a private garage for not more than three cars.

2. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building set-back lines unless similarly approved.

3. All improvements and construction shall meet with FHA requirements.

4. Owner reserves the right to approve all plans for construction contemplated on said lots.

5. All dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 1200 square feet for a one-story dwelling.

~~BOOK 1810 PAGE 634~~

BOOK 4887 PAGE 495

31837



**BEST COPY**

6. No garage or other buildings whatsoever shall be erected on any of said lots until a contract with a reliable and responsible contractor shall have been entered into for the construction of a dwelling which shall comply with the conditions, restrictions and stipulations herein contained, and prior to the erection of the main building herein permitted on any of said lots, no garage or other outbuilding shall be used for residential purposes.

7. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

8. No dwelling shall be erected or placed on any lot having a width less than one hundred (100) feet at the minimum building setback line, except that this provision shall not apply to any lot which is not rectangular in shape. No dwelling shall be erected or placed on any lot having an area of less than 24,000 square feet.

8a. No building or the covered porches or pergolas thereof shall be erected, placed or permitted at any point on any of said lots nearer than ten (10) feet to the side lines thereof, except on corner lots, where the minimum setback from the side street line must be fifteen (15) feet. No dwelling shall be located on any interior lot nearer than forty (40) feet to the rear lot line.

8b. No building or the covered porches or pergolas thereof shall be erected, placed or permitted at any point on any of said lots nearer than thirty (30) feet from the street front line of said lots.

8c. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

9. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and in all docket entries pertaining thereto. Within drainage easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with, or which may change the direction of flow of, drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

10. No hogs, goats, cows, horses, or sheep shall be kept on any of said property; provided, however, that nothing in this restriction shall be construed as preventing or in any way interfering with the keeping of ordinary pet animals.

11. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

12. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot. During the construction and sales period, appropriate signs may be erected as required by owner.

13. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

~~BOOK 4313 PAGE 835~~

BOOK 4887 PAGE 498



BEST COPY

14. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

15. No vehicle of any type which is abandoned or inoperable shall be stored or kept on any lot within this subdivision (or street if the subdivision contains private streets) in such a manner as to be seen from any other lot or from any streets or alleyways within this subdivision.

16. The native growth on said property, including cacti and palo verde trees, shall not be destroyed or removed from any of the lots in said subdivision by any of the lot owners, except such native growth as may be necessary for the construction and maintenance of roads, driveways, residences, garages, and other outbuildings, and laws, and/or walled in service yards and patios, which native growth shall not be removed prior to commencement of construction.

17. No fence, wall, hedge or shrub planting which obstructs sight-lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight-lines.

18. The Architectural Control Committee is composed of: J. William Mandelbaum, 10509 Tanque Verde Road, Tucson, Arizona; Stanley P. Abrams, 203 H South Kolb Road, Tucson, Arizona, and James L. Pabich, 9230 E. Visco Place, Tucson, Arizona. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

19. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

20. After interest of owner has terminated, a committee of property owners may be appointed to carry out the provisions of said restrictions.

It is expressly understood and agreed that CASAS ADOBES WEST II has been platted and laid out as a choice and attractive residential district, and that these covenants and restrictions are made for the lots herein described.

~~BOOK 10-3 PAGE 830~~

BOOK 4887 PAGE 497



BEST COPY

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty-five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lot has been recorded, agreeing to change said covenants in whole or in part.

If any person shall violate or attempt to violate any of said restrictions or covenants herein before August 1, 2009, or such time later as may be set up by the provisions of the paragraph preceding this one, it shall be lawful for any other persons owning any other lots in said development or subdivision to prosecute any proceedings at law or in equity against such person or persons violating or attempting to violate any such covenants or restrictions and either to prevent them or him from so doing or to recover damages for such violation.

Should any of the covenants or restrictions herein be held invalid or void, such invalidity or voidance of any covenants or restrictions shall not affect the rest of this instrument or any valid covenant or restrictions herein contained.

Any violation of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of said property acquired by any person through foreclosure or by deed in lieu of foreclosure for any violation of the provisions, conditions, restrictions and covenants herein contained occurring after the acquisition of said property through foreclosure or by deed in lieu of foreclosure.

After the date hereof, each party who acquires any interest in all or in any part of the property described herein, further agrees that upon such acquisition of any interest in all or part of the real property, said acquiring party shall look only to the other property owner or owners acquiring an interest in said property for any performance or relief deemed equitable or necessary for the enforcement of the covenants, conditions, and restrictions contained herein.

IN WITNESS WHEREOF, P.A.T. HOMES, INC., an Arizona corporation, has caused its corporate name and seal to be hereunto affixed by its officers hereunto duly authorized this 29th day of August 1974.



P.A.T. HOMES, INC., an Arizona corporation as second beneficiary under Trust No. 6578, duly authorized

BY: [Signature]  
Stanley P. Abrams, President

COUNTY OF PIMA ) SS  
STATE OF ARIZONA )

Signed and subscribed before me this 29th day of August 1974 by Stanley P. Abrams, President of P.A.T. Homes, Inc.

My Commission Expires April 7, 1978

Virginia F. Beck  
Notary

RATIFIED AND APPROVED:

TRANSAMERICA TITLE COMPANY, As Trustee solely as bare legal title holder, and not personally.

BY: [Signature]  
Trust Officer

BOOK 4887 PAGE 498

~~BOOK 1843 PAGE 687~~



BEST COPY

STATE OF ARIZONA )  
COUNTY OF PIMA ) ss. I hereby certify that the within instrument was filed for record in Pima County, State of Arizona.

No. 73757  
Book 5324  
Date: AUG 27 1976  
Request of: [Signature]

Witness my hand and Official Seal.	JDA MAE SMYTH County Recorder	
Indexed	Paired	Blotted

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASAS ADOBES WEST II

KNOW ALL MEN BY THESE PRESENTS:

That P.A.T. Homes, Inc., an Arizona corporation, with its principal place of business located at 4400 East Broadway, Tucson, Arizona, is the owner of a majority of the lots in Casas Adobes West II, being a subdivision of record in Pima County, Arizona, according to the plat of which is recorded in Book 26 of Maps and Plats, page 60, in the Office of the County Recorder,

Whereas, on August 29, 1974, P.A.T. Homes, Inc., imposed on the above described subdivision a certain Declaration of Covenants, Conditions and Restrictions and caused the same to be recorded in the Office of the County Recorder on September 3, 1974, in Book 4843 at page 684.

Whereas, said Declaration provides that an instrument signed by a majority of the owners of the lots may agree to change the covenants in whole or in part; and

Whereas, P.A.T. Homes, Inc., as the majority owner of said lots, desires to amend the existing Declaration for the purpose of establishing an amended plan for the improvement, development, use and sale of the above described property;

Now, therefore, P.A.T. Homes, Inc., amends the aforesaid declaration by deleting Lot 148 from the coverage of said Declaration so that henceforth said Declaration shall cover lots 1 through 147, inclusive.

Except as hereinabove modified, the covenants, conditions and restrictions imposed by said Declaration shall remain in full force and effect.

In witness whereof, P.A.T. Homes, Inc., has executed the foregoing this 30<sup>th</sup> day of June, 1976.

P.A.T. HOMES, INC.

By Stanley P. Abrams  
President

STATE OF ARIZONA )  
COUNTY OF PIMA ) ss

Before me, a Notary Public, in and for the County of Pima, State of Arizona, on this day personally appeared Stanley P. Abrams, known to me to be the President of P.A.T. Homes, Inc., and as such acknowledged to me that he executed the same for said corporation for the purpose and consideration therein expressed as its free act and deed and by him voluntarily executed.

Given under my hand and seal of office this 30<sup>th</sup> day of June, 1976.

My commission expires: Aug 27, 1979

[Signature]  
Notary Public

BOOK 5324 PAGE 641





*Pima County Clerk of Superior Court  
Tucson, Arizona*



Received for:	CARRIE FERRARA CLARK	Receipt Number:	2351730
Received from:	JACOBSON LAW FIRM	Date:	7/23/2014
Amount Received:	\$244.00	Case Number:	C20143985
		Clerk Number:	2.016

Caption: CARRIE FERRARA CLARK VS. CITY OF TUCSON

Cash: \$0.00	Check: \$244.00	Charge: \$0.00	ACH: \$0.00
--------------	-----------------	----------------	-------------

*Begin Financial Docket*



Civil Complaint

\$244.00 PAID

*End Financial Docket*

Change Returned: \$0.00

Amount Refunded: \$0.00

(MP)

FILED  
TOWNSHIP CLERK  
CITY OF TUCSON

OCT 20 PM 2:15

OCT 20 2014

DEPUTY

First Legal Network LLC  
10 E. Broadway Blvd Suite 105  
Tucson, AZ 85701  
(520) 798-2200 FAX: (520) 798-2201

IN THE ARIZONA SUPERIOR COURT  
STATE OF ARIZONA COUNTY OF PIMA

CARRIE FERRARA CLARK  
VS  
CITY OF TUCSON

CASE NO. C20143985

STATE OF ARIZONA )  
PIMA COUNTY )

AFFIDAVIT OF SERVICE

THE AFFIANT, being sworn, states: That I am a private process server registered in PIMA COUNTY and an Officer of the Court. On 10/16/14 I received the SUMMONS; COMPLAINT; EXHIBIT A; CERTIFICATE OF COMPULSORY ARBITRATION

from JACOBSON LAW FIRM and by JEFFREY J. JACOBSON in each instance I personally served a copy of each document listed above upon:  
CITY OF TUCSON, BY SERVICE UPON THE CITY CLERK, ROGER RANDOLPH on 10/17/14 at 11:00 am at 255 W. ALAMEDA, 9TH FL. TUCSON, AZ 85701 in the manner shown below:  
by leaving true copy(ies) of the above documents with SABRINA NAVARRO, DEPUTY CITY CLERK

Description: HISPANIC, Female, Approx. 27 yrs. of age, 5' 1" tall, Weighing 120lbs., BROWN Eyes, BLACK Hair,

*John P. Hogan*  
JOHN P. HOGAN Affiant  
Sworn to before me the Oct 17, 2014

*Priscilla C. Dominguez*  
Priscilla C. Dominguez Notary  
NOTARY PUBLIC  
PIMA COUNTY  
My Commission expires Dec 21, 2015

Service - Routine	\$	16.00
Min Mileage	\$	16.00
Rush	\$	35.00
Notary	\$	10.00
TOTAL	\$	77.00

10-14A07162 27776  
ORIGINAL 00



AX0210-14A07162

1 **JACOBSON LAW FIRM**  
 2 2730 EAST BROADWAY BLVD., SUITE 160  
 3 TUCSON, ARIZONA 85716  
 4 TELEPHONE (520) 885-2518  
 5 FACSIMILE (520) 844-1011  
 jeff@jhj-law.com  
 Jeffrey H. Jacobson, PCC #65402; SB#019502  
 Attorney for Plaintiff

6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
 7 **IN AND FOR THE COUNTY OF PIMA**

**020143985**

8 CARRIE FERRARA CLARK,

Case No.

9 Plaintiff,

**SUMMONS**

10 vs.

11 CITY OF TUCSON.

Assigned to:

**Gus Aragon**

12 Defendant.

13  
 14 THE STATE OF ARIZONA to the above-named Defendant:

- 15 I. A lawsuit has been filed against you.
- 16 II. If you do not want a Judgment taken against you for the relief demanded in
- 17 the accompanying Complaint, you must file a Response in writing in the
- 18 Office of the Clerk of Court, Pima County Superior Court, 110 West
- 19 Congress, Tucson, Arizona 85701-1348, accompanied by the necessary filing
- 20 fee. A copy of the Response must also be mailed to the attorney whose name
- 21 appears below.
- 22 III. The Response must be filed within TWENTY (20) DAYS, exclusive of the
- 23 date of service, if served within the State of Arizona, or within THIRTY (30)
- 24 DAYS, if served outside the State of Arizona.
- 25 IV. This is a legal document. If you do not understand its consequences, you
- 26 should seek the advice of an attorney.



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WITNESS My Hand and Seal of the Superior Court.

DATED: JUL 23 2014

CLERK OF THE SUPERIOR COURT

TONI L. HELTON

By \_\_\_\_\_  
Deputy Clerk LAURA TENENHOLTZ

Party requesting summons:

Jeffrey H. Jacobson  
Jacobson Law Firm  
2730 East Broadway, Suite 160  
Tucson, Arizona 85716  
*Attorney for Plaintiff*